

1 TODD KIM  
2 Assistant Attorney General  
3 Environment and Natural Resources Division  
4 United States Department of Justice

5 ARWYN CARROLL (MA Bar 675926)  
6 LEILANI DOKTOR (HI Bar 11201)  
7 Natural Resources Section  
8 P.O. Box 7611  
Washington, D.C. 20044-7611  
Phone: (202) 305-0465  
Fax: (202) 305-0506  
arwyn.carroll@usdoj.gov  
leilani.doktor@usdoj.gov

9 *Attorneys for Federal Defendants*

10 **UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

11 BARTELL RANCH LLC, *et al.*,  
12 Plaintiffs,

13 v.

14 ESTER M. MCCULLOUGH, *et al.*,  
15 Defendants.

16 Case No. 3:21-cv-80-MMD-CLB  
17 Related Case No. 3:21-cv-103-MMD-CLB  
(Consolidated)

18 **FEDERAL DEFENDANTS'  
RESPONSE TO THE BURNS PAIUTE  
TRIBE'S MOTION TO INTERVENE**

19 WESTERN WATERSHEDS PROJECT,  
20 *et al.*,

21 Plaintiffs,

22 v.

23 UNITED STATES DEPARTMENT OF  
24 THE INTERIOR, *et al.*,  
25 Defendants.

Federal Defendants do not oppose the Burns Paiute Tribe's motion to intervene in the above captioned case, but reserve the right to assert any defenses or jurisdictional or procedural challenges to the Burns Paiute Tribe's claims. In doing so, Federal Defendants rely on the representation of counsel for the Burns Paiute Tribe that, if permitted to intervene in a timely fashion, it does not intend to file a separate preliminary injunction motion.

With respect to the existing case management schedule, Federal Defendants note that the Burns Paiute Tribe and other Plaintiff-Intervenors have raised claims under the National Historic Preservation Act—claims not previously asserted in this action, and by which they challenge the sufficiency of an administrative process conducted under a separate statute than the claims previously asserted in this action. In light of their intervention, Federal Defendants must now respond to two additional, separate complaints; defend against a second preliminary injunction motion; and compile a second administrative record. While Federal Defendants appreciate the Burns Paiute Tribe’s and current Plaintiffs-Intervenors’ willingness to adhere to the existing case management schedule, Federal Defendants are evaluating the timeframe on which they can prepare the administrative record pertaining to the new NHPA claims and will propose to all counsel a schedule for service of that record and related filings, and which also addresses impacts on the existing briefing schedule from the expansion of the claims in this action, if any.

Respectfully submitted this 5th day of August, 2021.

TODD KIM  
Acting Assistant Attorney General  
United States Department of Justice  
Environment and Natural Resources Div.

/s/ Arwyn Carroll  
ARWYN CARROLL (MA Bar 675926)  
LEILANI DOKTOR (HI Bar 11201)

1 Trial Attorney  
2 Natural Resources Section  
3 P.O. Box 7611  
4 Washington, D.C. 20044-7611  
5 Phone: 202-305-0465  
6 Fax: 202-305-0506  
7 arwyn.carroll@usdoj.gov  
8 leilani.doktor@usdoj.gov

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

*Attorneys for Federal Defendants*